

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JAMES LAMAR HENDERSON,  
Petitioner,

v.

Case No. 16-cv-0104

SCOTT ECKSTEIN, Warden,  
Green Bay Correctional Institution,  
Respondent.

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**ORDER**

James Henderson has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Along with his petition, he also filed a motion for stay and abeyance pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005). Pursuant to Rule 4, I gave the case prompt initial consideration and concluded that petitioner stated at least one cognizable constitutional claim. Rather than ordering respondent to answer the petition, I ordered him to respond to petitioner's request for a stay and abeyance.

On March 21, 2016, respondent filed a brief in opposition to the stay and abeyance and a motion to dismiss. See Mem. Opposing Mot. for Stay & Mot. to Dismiss (ECF No. 10). Under the local rules, petitioner had 21 days to respond to the motion to dismiss. Civil L.R. 7(b). As of the date of this order, petitioner has not responded to the motion or communicated with this court in any way. Given petitioner's pro se status, I will give him another opportunity to respond to the motion. Petitioner may also, but is not required to, respond to respondent's arguments against a stay and abeyance in this case. Petitioner should file his response by **Friday, June 24, 2016**. I warn petitioner that

failure to respond to the motion may result in dismissal of this action for a lack of diligence pursuant to Civil L.R. 41(c), a copy of which I have attached to this order.

**THEREFORE, IT IS ORDERED** that petitioner shall file his response to respondent's motion to dismiss on or before **June 24, 2016**. Failure to respond or otherwise communicate with the court will result in dismissal of this action for a lack of diligence pursuant to Civil L.R. 41(c).

Dated at Milwaukee, Wisconsin, this 4th day of June, 2016.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge

**Civil L.R. 41(c) Dismissal for Lack of Diligence.** Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action and Civil L. R. 41(a) or (b) does not apply, the Court may enter an order of dismissal with or without prejudice. Any affected party may petition for reinstatement of the action within 21 days.